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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,274	03/04/2004	Manfred Lilge	449122067900	4237

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EXAMINER
LI, AIMEE J

ART UNIT	PAPER NUMBER
2183	·

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/792,274	LILGE ET AL.
	Examiner	Art Unit	
	Aimee J. Li	2183	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 March 2005 and 05 December 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-5</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04 March 2004</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-5 have been considered. Claims 6-13 have been withdrawn from consideration.

Papers Submitted

2.   It is hereby acknowledged that the following papers have been received and placed of record in the file: Specification and Drawings as received on 04 March 2004; Oath and Declaration as received on 26 July 2004; and Response to Election/Restriction as received 05 December 2005.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being taught by Matsushima et al., U.S. Patent Number 5,036,458 (herein referred to as Matsushima).

5.   Referring to claim 1, Matsushima has taught a method for dynamically processing at least one data processing instruction in a communication network, comprising:

    a.   Providing a data processing system which is configured to process data processing instructions in real time and in stack-oriented fashion (Matsushima Abstract; column 1, lines 47-52; column 2, line 45 to column 3, line 2; and column 3, lines 16-26 and 39-50); and

b.   Processing at least one data processing instruction in real time or in stack-oriented fashion depending on at least one input variable (Matsushima Abstract; column 1, lines 47-52; column 2, line 45 to column 3, line 2; and column 3, lines 16-26 and 39-50).

6.   Referring to claim 3, Matsushima has taught wherein the input variable used is information about the processing speed which is to be used (Matsushima Abstract; column 1, lines 47-52; column 2, line 45 to column 3, line 2; and column 3, lines 16-26 and 39-50).

7.   Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being taught by Tessarolo et al., U.S. Patent Application Publication 2002/0112144 (herein referred to as Tessarolo).

8.   Referring to claim 1, Tessarolo has taught a method for dynamically processing at least one data processing instruction in a communication network, comprising:

a.   Providing a data processing system which is configured to process data processing instructions in real time and in stack-oriented fashion (Figure 9; Figure 28; page 3, paragraph 0077-0078; page 4, paragraph 0099; page 5, paragraph 0122; page 7, paragraphs 0137-0142 and 0150; page 10, paragraph 0177; page 11, paragraph 0189; page 13, paragraph 0223; pages 13-14, paragraph 0225; and page 14, paragraph 0254); and

b.   Processing at least one data processing instruction in real time or in stack-oriented fashion depending on at least one input variable (Figure 9; Figure 28; page 3, paragraph 0077-0078; page 4, paragraph 0099; page 5, paragraph 0122; page 7, paragraphs 0137-0142 and 0150; page 10, paragraph 0177; page 11, paragraph

0189; page 13, paragraph 0223; pages 13-14, paragraph 0225; and page 14,

paragraph 0254).

9.   Referring to claim 4, Tessarolo has taught wherein the input variable used is information

about the interface used by a subscriber (Figure 9; Figure 28; page 3, paragraph 0077-0078; page

4, paragraph 0099; page 5, paragraph 0122; page 7, paragraphs 0137-0142 and 0150; page 10,

paragraph 0177; page 11, paragraph 0189; page 13, paragraph 0223; pages 13-14, paragraph

0225; and page 14, paragraph 0254).

10.   Claims 1-2 and 5 are rejected under 35 U.S.C. 102(e) as being taught by Kunito et al.,

U.S. Patent Number 6,549,537 (herein referred to as Kunito).

11.   Referring to claim 1, Kunito has taught a method for dynamically processing at least one

data processing instruction in a communication network, comprising:

>   a.   Providing a data processing system which is configured to process data
>
>   processing instructions in real time and in stack-oriented fashion (Kunito
>
>   Abstract; column 1, lines 33-63; column 2, lines 4-22; column 2, line 61 to
>
>   column 3, line 64; column 4, line 24 to column 5, line 22; Figure 4; and Figure 6);
>
>   and
>
>   b.   Processing at least one data processing instruction in real time or in stack-oriented
>
>   fashion depending on at least one input variable (Kunito Abstract; column 1, lines
>
>   33-63; column 2, lines 4-22; column 2, line 61 to column 3, line 64; column 4,
>
>   line 24 to column 5, line 22; Figure 4; and Figure 6).

12.   Referring to claim 2, Kunito has taught wherein the input variable used is information

about priority of the data processing instruction which is to be processed (Kunito Abstract;

column 1, lines 33-63; column 2, lines 4-22; column 2, line 61 to column 3, line 64; column 4,

line 24 to column 5, line 22; Figure 4; and Figure 6).

13.   Referring to claim 5, Kunito has taught wherein the input variable used is information

about the bandwidth of the respective interface (Kunito Abstract; column 1, lines 33-63; column

2, lines 4-22; column 2, line 61 to column 3, line 64; column 4, line 24 to column 5, line 22;

Figure 4; and Figure 6).

Conclusion

14.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure as follows. Applicant is reminded that in amending in response to a rejection of

claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by

the references cited and the objections made. Applicant must also show how the amendments

avoid such references and objections. See 37 CFR § 1.111(c).

    a.   Matsushima et al., U.S. Patent Numbers 5,159,688 and 5,163,150, have taught a

mode changing system between stack-based and real-time systems based upon

processing speed.

    b.   Tessarolo et al., U.S. Patent Number 6,567,910, has taught changing from a stack-

based system and a real-time system based upon user interface modes.

    c.   Kim, U.S. Patent Application Publication 2002/0064161, has taught a system with

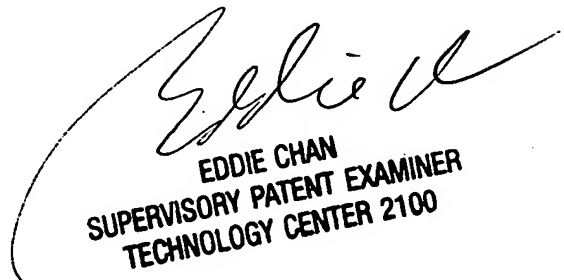both stack-based and real-time operations.

15.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Aimee J. Li whose telephone number is (571) 272-4169. The

examiner can normally be reached on M-T 7:30am-5:00pm.

16.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Eddie Chan can be reached on (571) 272-4162. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

17.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AJL
Aimee J. Li
16 April 2006

EDDIE CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100